

(2) *Hearing.* If the operator requests a hearing, it will be held before a hearing officer designated by the Commissioner of Customs or his designee within 30 days following the operator's request. The operator may be represented by counsel at the hearing, and any evidence and testimony of witnesses in the proceeding, including substantiation of the allegations and the response thereto, will be presented. The right of cross-examination will be available to both parties. A stenographic record of the proceeding will be made and a copy will be delivered to the operator. At the conclusion of the hearing, the hearing officer shall transmit promptly all papers and the stenographic record of the hearing to the Assistant Commissioner, Office of Field Operations, or designee, together with a recommendation for final action.

(3) *Decision of Assistant Commissioner.* Within 10 calendar days after delivery to the operator of a copy of the stenographic record of the hearing, the operator may submit to the Assistant Commissioner, Office of Field Operations, or designee, in writing any additional views or arguments. The Assistant Commissioner, Office of Field Operations, or designee, shall then render a written decision stating his reasons therefor. That decision will be served on the operator and will be considered the final Customs administrative action in the case.

(4) *Grantee.* If the grantee of the zone is not the operator, a copy of the notice to show cause will be served upon the grantee. The grantee, as a party-in-interest, may join the operator in any proceedings under this section.

[T.D. 86-16, 51 FR 5049, Feb. 11, 1986, as amended by T.D. 88-63, 53 FR 40220, Oct. 14, 1988; T.D. 95-99, 60 FR 62733, Dec. 7, 1995]

**§ 146.83 Revocation of zone grant.**

(a) *Recommendation of port director.* The port director may at any time recommend to the Board that the privilege of establishing, operating, and maintaining a zone or subzone under Customs jurisdiction be revoked for willful and repeated violations of the Act (19 U.S.C. 81r). If the port director believes that a substantial question of law exists as to whether willful and repeated violations of the Act have oc-

curred, that officer may request internal advice under the provisions of part 177 of this chapter from the Director, International Trade Compliance Division, Headquarters. A recommendation to the Board that a zone or subzone grant be revoked does not preclude, and may be in addition to, any liquidated damages, penalty, or suspension for cause.

(b) *Decision of the Board.* The procedure for revocation of a grant, the decision of the Board, and appeal is covered by the provisions of the Act and title 15, chapter IV, part 400, Code of Federal Regulations.

[T.D. 86-16, 51 FR 5049, Feb. 11, 1986, as amended by T.D. 91-77, 56 FR 46115, Sept. 10, 1991; T.D. 99-27, 64 FR 13676, Mar. 22, 1999]

**Subpart H—Petroleum Refineries in Foreign-Trade Subzones**

SOURCE: T.D. 95-35, 60 FR 20632, Apr. 27, 1995, unless otherwise noted.

**§ 146.91 Applicability.**

This subpart applies only to a petroleum refinery (as defined herein) engaged in refining petroleum in a foreign-trade zone or subzone. Further, the provisions relating to zones generally, which are set forth elsewhere in this part, including documentation and document retention requirements, and entry procedures, such as weekly entry, shall apply as well to a refinery subzone, insofar as applicable to and not inconsistent with the specific provisions of this subpart. It does not cover zone-to-zone transfers in which the fact of removal from one zone is ignored.

**§ 146.92 Definitions.**

(a) *Attribution.* "Attribution" means the association of a final product with its source material.

(b) *Feedstocks.* "Feedstocks" means crude petroleum or intermediate product that is used in a petroleum refinery to make a final product.

(c) *Feedstock factor.* "Feedstock factor" means the relative value of final products utilizing T.D. 66-16 (see § 146.92(h)), and which takes into account any volumetric loss or gain.

(d) *Final product*. “Final product” means any petroleum product that is produced in a refinery subzone and thereafter removed therefrom or consumed within the zone.

(e) *Manufacturing period*. “Manufacturing period” means a period selected by the refiner which must be no more than a calendar month basis, for which attribution to a source feedstock must be made for every final product made, consumed in, or removed from the refinery subzone.

(f) *Petroleum refinery*. “Petroleum refinery” means a facility that refines a feedstock listed on the top line of the tables set forth in T.D. 66-16 into a product listed in the left column of the tables set forth in T.D. 66-16.

(g) *Price of product*. “Price of product” means the average per unit market value of each final product for a given manufacturing period or the published standard product value if updated each month.

(h) *Producibility*. “Producibility” is a method of attributing products to feedstocks for petroleum manufacturing in accordance with the Industry Standards of Potential Production set forth in T.D. 66-16.

(i) *Relative value*. “Relative value” means a value assigned to each final product attributed to the separation from a privileged foreign feedstock based on the ratio of the final product’s value compared to the privileged foreign feedstock’s duty.

(j) *Time of Separation*. “Time of separation” means the manufacturing period in which a privileged foreign status feedstock is deemed to have been separated into two or more final products.

(k) *Weighted Average*. “Weighted average” means the relative value of merchandise, which is determined by dividing the total value of shipments in a given period by the total quantity shipped in the same given period. See example in section VI of the appendix to this part.

**§ 146.93 Inventory control and record-keeping system.**

(a) *Attribution*. All final products removed from or consumed within a petroleum refinery subzone must be attributed to feedstock admitted into

said petroleum refinery subzone in the current or prior manufacturing period. Attribution must be based on records maintained by the operator. Attribution may be made by applying one of the authorized methods set forth in this section. Records must be maintained on a weight or volume basis.

(1) *Producibility*. The producibility method of attribution requires that records be kept to attribute final products to feedstocks which are eligible for attribution as set forth in this section during the current or prior manufacturing period.

(2) *Actual production records*. An operator may use its actual production records as provided for under § 146.95(b) of this subpart.

(3) *Other inventory method*. An operator may use the FIFO (first-in, first-out) method of accounting (see § 191.22(c) of this chapter). The use of this method is illustrated in the appendix to this part.

(b) *Feedstock eligible for attribution*. Only a feedstock that has been admitted into the refinery subzone is eligible for attribution. For a given manufacturing period, the quantity of feedstock eligible for attribution may be computed as beginning inventory, plus receipts less shipments of feedstock out of the subzone, and less ending inventory.

(c) *Consumption or removal of final product*. Each final product that is consumed in or removed from a refinery subzone must be attributed to a feedstock eligible for attribution during the current or a prior manufacturing period. Each final product attributed as being produced from the separation of a privileged foreign status feedstock must be assigned the proper relative value as set forth in paragraph (d) of this section.

(d) *Relative value*. A relative value calculation is required when two or more final products are produced as the result of the separation of privileged foreign status feedstock. Ad valorem and compound rates of duty must be converted to specific rates of duty in order to make a relative value calculation.